



Child Development Division

MANAGEMENT BULLETIN

Subject: NOTICE OF ACTION: <ul style="list-style-type: none">• APPLICATION FOR SERVICES• RECIPIENT OF SERVICES	No: 01-16
Authority: Education Code §§ 8261, 8263; Title 5, California Code of Regulations, §§ 18094, 18095, 18114, 18118, 18119, 18120, 18121, 18122, 18400(k)(l), 18418, 18419, 18433, and 18434.	Date: October 2001
	Expires: When Rescinded

ATTENTION: EXECUTIVE OFFICERS AND PROGRAM DIRECTORS OF CHILD CARE AND DEVELOPMENT PROGRAMS

PURPOSE

This Management Bulletin provides agencies administering child care and development program services (services) through a contract with the California Department of Education, Child Development Division (CDD), instruction on procedures for notifying parents of authorized services, changes to service agreements, or termination of services. In addition, this Management Bulletin describes the actions required by agencies for the prescribed local hearing and CDD appeal processes available to families when a family disagrees with an agency's decision to deny, change, or terminate services pursuant to Title 5, *California Code of Regulations*, section 18118 et seq.¹

BACKGROUND

Title 5 establishes procedures and timelines for agencies to inform families when the agency approves or denies services; when the agency changes or terminates the family's service agreement (Form CD-9600); or when the agency seeks to collect delinquent fees from the family. Agency actions are communicated to families through a written *Notice of Action* (NOA). There are two types of NOAs: (1) NOA, Application for Services, and (2) NOA, Recipient of Services. There are three distinct phases to the NOA process: (1) Notice, (2) Local Hearing, and (3) Appeal to CDD.

Agencies must issue a NOA, Application for Services to inform families of the results of their request for services. Agencies must issue a NOA, Recipient of Services when any changes occur to an approved service agreement, including termination of services. Each NOA includes information that instructs families on how to request a local hearing and appeal to CDD if they disagree with the decisions of the agency. If the family disputes the agency's action as noted in the NOA, and requests a local hearing, the intended action is suspended until the review process has been completed. The review process is complete when the appeal process has been exhausted or when the family abandons their appeal.

REGULATORY REQUIREMENTS

Phase One: Notice

Sections 18118 and 18119, describe the circumstances that require an agency to issue a NOA to a family. Sections 18094, 18095, and 18114 describe the information that must be included in the NOA when the notice is given or mailed to the family. Following is a comparative description of the appropriate use for each NOA type as well as the specific information each NOA must contain before it is given or mailed to the family.

¹ All section (§) references shall be to Title 5 of the *California Code of Regulations*, unless otherwise specified.

NOA, Application for Services

- A. This NOA is used to:
1. Approve the application for services, and provide a written confirmation of the approved service agreement; or
 2. Deny the application for services, and provide a written explanation as to why the family will not receive services. (§§18094, 18118)
- B. This NOA must include the following information when given or mailed to the family:
1. The applicant's name and address;
 2. The agency's name and address;
 3. The name and telephone number of the agency's authorized representative who made the decision;
 4. The date of the notice; and,
 5. The method of distribution of the notice. (§18094[a])

Approval of Application: If the agency approves a family's request for services, Section 18094(b) requires that the NOA to an applicant also include the following information:

1. The basis of eligibility;
2. The daily/hourly fee, if applicable;
3. The duration of the eligibility;
4. The names of children approved to receive services; and
5. Hours of service approved for each day.

Denial of Application: If the agency denies services to a family, Section 18094(c) requires that the NOA to an applicant also include the following information:

1. The specific basis of the denial; and
2. Instructions for the family on how to request a hearing if they do not agree with the agency's decision as stated in the NOA. The instructions must follow sections 8120 and 18121 requirements.

NOA, Recipient of Services

- A. This NOA is used when:
1. The service agreement is changed, which may include, but not be limited to, an increase or decrease in parent fees, increase or decrease in services, or termination of services;
 2. The agency learns of the death of the parent or child;
 3. The family informs the agency that they no longer desire the services;
 4. The service agreement was approved for a limited-term period and the term is ending;
 5. The family has not provided requested eligibility or need information after a written request for the information; or
 6. The family is delinquent in the payment of their fees. (§§18095, 18114[d], 18119)
- B. This NOA must include the following information when given or mailed to the family:
1. The type of action being taken;
 2. The effective date of the action;
 3. The name and address of the recipient;
 4. The name and address of the agency;
 5. The name and telephone number of the agency's authorized representative who is taking the action;
 6. The date the notice is mailed or given to the family;
 7. The method of delivery of the NOA to the family;
 8. A description of the action;
 9. A statement of the reason(s) for the changes to the service agreement; or
 10. A statement of the reason(s) for termination; and
 11. Instructions for the family on how to request a hearing if they do not agree with the agency's decision as stated in the NOA. (§18095)

Delinquent Fee NOA: If the agency determines a family is delinquent in paying their required fees for services, Section 18114(d) requires that the NOA to an applicant also include the following information:

1. The total amount of unpaid fees;
2. The fee rate;
3. The period of delinquency; and
4. Notice that services will be terminated 14 days from the date of the NOA, unless the family pays the delinquent fees before the end of the 14-day period or submits a reasonable repayment plan.

An agency should not issue a NOA, Application for Services or a NOA, Recipient of Services to request need or eligibility information. The agency must first make a written request for the information. (§18119[b][4]) Such a request is appropriately issued on agency letterhead. The written request must clearly describe the type of information needed to determine eligibility or need for services, and include a specific, reasonable timeline for the family to respond to the request. Before an agency sends a NOA to a family for failing to provide need or eligibility information, the agency must be able to demonstrate that a written request for the information preceded the NOA.

When an agency determines that a family is delinquent in paying their share of required fees for services, the NOA, Recipient of Services informs the family that services will be terminated in **14** days if fees are not paid. However, if the family submits a repayment plan and the agency determines that the plan is reasonable, the agency must accept the repayment plan and continue the family's services. The family's services shall continue, provided the family pays the current fees when due and complies with the terms of the repayment plan. (§§18114, 18115)

To promote efficient and effective program administration, CDD has developed a new NOA form, Form CD-7617 (Rev. 10/01), that you are encouraged to use to comply with the NOA, Application for Services, and the NOA, Recipient of Services notice requirements. Form CD-7617 is attached to this Management Bulletin and is available on the CDD's web page at: http://www.cde.ca.gov/cyfsbranch/child_development. Form CD-7617 can be downloaded in both MS Word and PDF formats. Although it is not mandatory, CDD encourages the use of Form CD-7617 when issuing a NOA.

Serving the NOA to the Family

1. NOA, Application for Services

The agency must personally deliver or mail the completed NOA, Application for Services to the family within **30** calendar days from the date the parent signs the application for services, Form CD-9600. (§§18094, 18118)

2. NOA, Recipient of Services

The agency must personally deliver or mail the NOA, Recipient of Services to the family. If the agency personally serves the family with the NOA, Recipient of Services, it must do so at least **14** calendar days before the agency action becomes effective. (§18119)

When the agency mails a NOA, Recipient of Services to a family, the NOA should be placed in a sealed envelope, with postage paid, and addressed to the address provided by the family.

If the NOA, Recipient of Services is mailed to a family enrolled in an alternative payment program for either a CalWORKs Stage 2 or CalWORKs Stage 3 child care program, the effective date of the intended action must be no less than **19** calendar days from the date the notice was mailed. (§18419, 18434)

If the NOA, Recipient of Services is mailed to a family enrolled in any other (non-CalWORKs) child care and development program, the effective date of the intended action must be no less than **14** calendar days from the date the notice was **received**. (§18119) For agency's to establish a reasonable presumption that the family was in receipt of the NOA 14 calendar days before the effective date of the intended action, CDD suggests that the effective date of the intended action for all child care and development programs be no less than **19** calendar days from the date the NOA, Recipient of Services is mailed (**14** days notice, plus **five** days for mailing).

CDD's Recommendation for Confirming NOA Issue Date

If the NOA is personally given to the family, the family's timeline for requesting a local hearing begins when the NOA is received. When the NOA is personally served, have the parent initial the original and a copy of the NOA. The family receives the original NOA, and the copy of the NOA is maintained in the agency's file.

If the NOA is mailed, the family's timeline for requesting a local hearing begins when the NOA is mailed. Therefore, the CDD suggests that the agency mail the NOA with a Certificate of Mailing to provide the agency with a mailing receipt. This receipt documents the date the NOA was sent to the family.

Phase Two: Local Hearing

If a family disagrees with the agency's action described in the NOA, the family may request a local hearing with that agency. (§18120) The reverse side of the recommended NOA form (CD-7617) provides directions to the family on how to request a Local Hearing.

1. Timeline to Request a Local Hearing

The family must request a local hearing within **14** calendar days from the date the NOA was received. (§18120). If the NOA was personally served, they must request the local hearing within 14 days from that date.

If the NOA was mailed, the family must request a local hearing within **14** calendars from the date the NOA was **received**. CDD suggests that agencies allow **19** calendar days (14 days notice, plus five days for mailing) to receive the family's request for a local hearing. The 19 calendar day timeline provides the agency a reasonable presumption that the family was in receipt of the NOA for at least **14** calendar days prior to the date the request for a hearing is due to the agency. If the family does not file a request for a hearing within the required timelines, the family is deemed to have waived its appeal rights, and the review process is considered to be complete. CDD suggests that if the family does not request a local hearing, the agency should document this fact on the agency's copy of the NOA.

2. Effect on Services of Family Filing a Request for a Local Hearing

Upon the family's filing of a request for a hearing with the agency, the agency's action shall be suspended until the entire review process has been completed. Therefore, the agency may neither terminate nor suspend the family's services if the family has filed a request for a hearing unless the reason for the action is to protect the safety, health, or welfare of agency personnel and/or the children under their supervision. Even if services are terminated immediately, the agency must still hold a hearing on the NOA if requested by the family.

3. The Local Hearing

If the family requests a local hearing to dispute the reasons for action described in the NOA, the agency must receive and consider any documentation the family provides to the agency before and during the local hearing process. The family member and/or the authorized representative must be given an opportunity to participate in a local hearing. In addition to the family member or authorized representative, only persons directly affected by the hearing are allowed to attend. (§18120)

Within **ten** calendar days following the receipt of the family's request for a hearing, the agency shall notify the family of the time and place of the hearing. The agency, to the extent possible, must ensure that the time and place of the hearing is convenient for the family. If the family requests the assistance of an interpreter, the agency shall arrange for the presence of an interpreter at the hearing. (§18120)

The agency shall designate an administrative staff person as the "hearing officer," who shall conduct the local hearing. The agency's administrative staff person shall be at a staff level higher in authority than the staff person who made the contested decision. The "hearing officer" reviews all relevant documents, hears the matter, and independently makes a decision on the disputed issues. During the hearing, the "hearing officer" must explain to the family or its representative the legal, regulatory, or policy basis for the agency's action. The family or its representative must be permitted an opportunity at the local hearing to explain the reason(s) they believe the agency's decision is incorrect. The family may also present any evidence to support its position. Also during the hearing, and in the presence of the family or its representative, the agency's staff must present any material facts omitted by the family. The family must be permitted an opportunity to respond to the additional information provided by the agency staff during the hearing. (§18120)

The "hearing officer" can only decide those issues stated in the respective NOA. Other bases for the agency's action not stated in the NOA cannot be addressed without providing the family with proper notice, i.e., a separate NOA. (§§18095, 18119, 18120) After reviewing and hearing the matter, the "hearing officer" that conducted the hearing shall write a decision letter. Agency staff that made the contested decision may not write the decision for the administrative staff person's signature. The decision shall be either mailed or personally delivered to the family within ten calendar days after the hearing. (§18120[j]) If the agency mails the decision, CDD suggests that the decision be mailed with a Certificate of Mailing.

If the family or its authorized representative does not appear at the hearing, the family will be deemed to have abandoned its appeal, and the review process will be considered complete. (§18120[b]) CDD suggests that if the family does not appear at the hearing and does not send a representative, the agency send the family a letter confirming the appeal was abandoned. A copy of the agency's letter should be retained in the family's basic data file with the NOA.

Phase 3: Appeal to CDD

The local agency must ensure the family is notified of its right to appeal the agency's decision to CDD. CDD encourages agencies to include this notice in the written decision letter. Families will find specific instructions on how to submit a complete appeal to CDD on the reverse side of the recommended NOA form (CD-7617).

1. Timeline for the Family to Appeal to CDD

If the family disagrees with the written decision from the contractor, the family has **14** calendar days to appeal to CDD from the date they receive the written decision. (§18121[a])

2. Effect on Services of Family Filing an Appeal to CDD

Like the filing of a request for a local hearing, the agency's intended action is suspended when the family appeals the agency's written decision to CDD. (§18120[b])

3. CDD's Review of the Family's Appeal

When CDD receives the family's appeal, CDD personnel handling the appeal may request any information or documentation that CDD deems necessary to resolve the appeal. CDD may also conduct interviews or mediate a resolution of the appeal. CDD reviews each appeal to ensure that the family received proper notice; the family complied with the appeal process steps; a local hearing occurred, in accordance with Title 5 regulations, before the appeal was directed to CDD; and the law, regulations, contract terms, and/or board policy support actions cited in the NOA. When the reason for the action is based on board policy, CDD also determines whether the policies and their effect are consistent with law and regulations. CDD shall mail or deliver to the family its written decision within **30** calendar days of the receipt of the family's appeal. (§18121)

4. Agency's Obligation Upon Receipt of CDD's Decision

Once the agency receives CDD's written decision to the family's appeal, the agency shall comply immediately with CDD's decision. If CDD finds in favor of the family, services to the family shall continue. If CDD's decision upholds the agency's decision to change the service agreement, or terminate services to the family, the agency shall immediately act on proposed changes or terminate services to the family as required by the NOA. (§18122)

5. Reimbursement for Services During the Appeal Process

The agency will be reimbursed by CDD for child care and development services delivered to the family during the appeal process, based on the service agreement in effect at the time of the appeal.

Any questions regarding the NOA process may be addressed to your assigned consultant (see attached CDD/Field Services Units County Assignment Listing).

/s/ Michael Jett

/s/ Kathy B. Lewis

Michael Jett
Director
Child Development Division

Kathy B. Lewis
Deputy Superintendent
Child, Youth and Family Services Branch

Attachment(s): Notice of Action (Form CD-7617 [Rev. 10/01])
CDD/Field Services Units County Assignment List

<p>This Management Bulletin is mandatory only to the extent that it cites a specific statutory and/or regulatory requirement. Any portion of this Management Bulletin that is not supported by a specific statutory and/or regulatory requirement is not prescriptive pursuant to Education Code 33308.5.</p>

NOTICE OF ACTION

CD-7617 (Rev. 10/01)

1. Type of Notice of Action (Complete Either 1A or 1B) A. Application for Services Date of Approved Service Agreement (CD-9600) _____ <input type="checkbox"/> Services Approved <input type="checkbox"/> Services Denied _____				B. Recipient of Services <input type="checkbox"/> Change in Service Effective Date of Action _____ <input type="checkbox"/> Termination In Service <input type="checkbox"/> Notice of Delinquent Fees					
2. Distribution of Notice <input type="checkbox"/> Given to Parent Parent's Initials _____				Date Notice Given or Mailed _____ Mailed: <input type="checkbox"/> First Class <input type="checkbox"/> Other <input type="checkbox"/> First Class w/Certificate of Mailing Tracking No. _____					
3. Parent/Caretaker Information									
Parent/Caretaker A			Address						
Parent/Caretaker B			City	Zip	Telephone				
4. Approved Child Care Services (Complete all information for each child approved for services.)									
Name(s) of Child(ren) Receiving Services	Program Code		Enter Approved Hours of Enrollment						
			Sun.	Mon.	Tues.	Wed.	Thurs.	Fri.	Sat.
		School Vacation							
		School Vacation							
		School Vacation							
		School Vacation							
Family Fee: Hourly \$ Part-time Daily \$ Full-time \$			Estimated Recertification Date						
5. Basis for Family Eligibility for Services <input type="checkbox"/> Recipient of Child Protective Services <input type="checkbox"/> Current Aid Recipient <input type="checkbox"/> Child(ren) Identified as or At Risk of Being Abused, Neglected, or Exploited <input type="checkbox"/> Income Eligible (Reference Family Fee Schedule or Income Ceiling for Admission to State Preschool Programs.) <input type="checkbox"/> Homeless			6. Basis for Family Need for Services (This section does not apply to State Preschool Programs [GPPE]) <input type="checkbox"/> Recipient of Child Protective Services <input type="checkbox"/> Child(ren) with Medical or Psychiatric Special Need <input type="checkbox"/> Child(ren) Identified as or At Risk of Being Abused, Neglected, or Exploited <input type="checkbox"/> Seeking Permanent Housing <input type="checkbox"/> Engaged in Vocational Training/Education <input type="checkbox"/> Employed or Seeking Employment <input type="checkbox"/> Incapacitated Parent(s)						
7. Reason for Action: State the specific reason services were denied, changed, or terminated.									

8. Agency Name _____

9. Name/Title of Agency Representative _____

10. Signature of Agency Representative _____

The agency must complete the information on the reverse side before the Notice of Action is issued.

NOTICE OF ACTION

CD-7617 (Rev. 10/01) (REVERSE)

Appeal Information: If you do not agree with the agency's actions as stated in the Notice of Action, you may appeal the intended action. To protect your appeal rights, you must follow the instructions described in each step listed below. If you do not respond by the required due dates or fail to submit the required appeal information with your appeal request, your appeal may be considered abandoned.

STEP 1: Complete the following appeal information to request a Local Hearing:

Name of Parent/Caretaker		Telephone No.	
Address	City	Zip	
Check Box if an Interpreter is Needed at the Local Hearing: <input type="checkbox"/>	Signature of Person Requesting a Local Hearing		Date

STEP 2: Mail or deliver your local hearing request within 14 days of receipt of this notice to:

This section must be completed by the Agency before the Notice is served

A. Agency Name

B. Agency Address

C. City/State/Zip

D. Name of Agency Contact

E. Agency Telephone Number

STEP 3: Within ten (10) calendar days following the agency's receipt of your appeal request, the agency will notify you of the time and place of the hearing. You or your authorized representative are required to attend the hearing. If you or your representative do not attend the hearing, your rights to an appeal end and the action of the agency will be implemented.

STEP 4: Within ten (10) calendar days following the hearing, the agency shall mail or delivery to you a written decision.

STEP 5: If you disagree with the written decision of the agency, you have 14 days from your receipt of the written decision to file an appeal with the Child Development Division (CDD). Your appeal to CDD must include the following documents and information: (1) a written statement specifying the reasons you believe the agency's decision was incorrect, (2) a copy of the agency's decision letter, and (3) a copy of both sides of this notice. Mail your appeal to the following address:

California Department of Education
Child Development Division
560 J Street, Suite 220
Sacramento, CA 95814
Attn: Appeals Coordinator

STEP 6: Within 30 calendar days after the receipt of your appeal, CDD will issue a written decision to you and the agency. If your appeal is denied, the agency will stop providing child care and development services immediately upon receipt of CDD's decision letter.